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No. 73-771

In the Supreme Court of the United States

OCTOBER TERM, 1973

MURRAY ANDERSON, PETITIONER

v.

JOHN T. DUNLOP, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES TEMPORARY EMERGENCY COURT OF APPEALS

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The respondents invite the attention of the Court to the following facts, which show that the petition was not timely filed.

The petitioners instituted suit in the United States District Court for the District of Columbia to enjoin implementation and enforcement of the Phase IV petroleum industry regulations with respect to themselves and other retailers of gasoline they allege to represent.

The district court granted petitioners' motion for a preliminary injunction by order entered on August 24, 1973 (Pet. App. 1a). The Temporary Emergency Court of Appeals reversed the decision of the district court on

October 10, 1973, and remanded with directions to dismiss (Pet. App. 6a).

The petition for certiorari was filed on November 12, 1973, 33 days after the entry of judgment. Section 211(g) of the Economic Stabilization Act of 1970, 12 U.S.C. (Supp. II, 1972) 1904,[1] upon which this Court's jurisdiction concededly depends (Pet. 2), explicitly prescribes a 30-day period for filing a writ of certiorari to review judgments of the Temporary Emergency Court of Appeals.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

DECEMBER 1973.

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[1] Section 211(g) of the Act, 85 Stat. 750, 12 U.S.C. (Supp. II, 1972) 1904 provides in pertinent part:

> Within thirty days after entry of any judgment of order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code. * * *